

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

LIBERTY MUTUAL INSURANCE  
COMPANY,

Plaintiff

v.

A STAFFING KOMPANY, INC., APPS, INC.,  
JERRY SCHEIB, LORETTA SCHEIB,  
and DORIS BURNS,

Defendants.

Case No. 1:09-CV-271

Chief Judge Curtis L. Collier

**ORDER**

On March 10, 2010, the Court observed it had no record that process had been served on defendants A Staffing Kompany, Inc., APPS, Inc., Jerry Scheib, or Loretta Scheib (Court File No. 6). Accordingly, the Court ordered Plaintiff Liberty Mutual Insurance Company ("Plaintiff") to show cause within ten days why this action should not be dismissed as to these defendants pursuant to Fed. R. Civ. P. 4(m).

On March 18, 2010, Plaintiff filed a response to the order to show cause (Court File No. 7). As to the corporate defendants, Plaintiff moved that A Staffing Kompany, Inc., and APPS, Inc., be dismissed without prejudice from the case pursuant to Rule 41(a)(1). The Court will grant this motion.

As to individual defendant Loretta Scheib, a/k/a Loretta Hart, Plaintiff alleged evidence of service of process was filed with the Court on December 17, 2009. As the Court stated in its March 10, 2010 Order, the Court has no record of this service. Plaintiff further alleges that Ms. Scheib filed for bankruptcy in the United States Bankruptcy Court for the Eastern District of Tennessee. Plaintiff asks the Court to stay this action as to this defendant until the resolution of those proceedings.

This Court will deny this motion. The Court will not grant a stay until there is at least record of service of process and Ms. Scheib has an opportunity to respond to Plaintiff's motion. To do otherwise would deprive Ms. Scheib of notice of this case and an opportunity to argue that a stay would be improper. Therefore, as ordered previously, Plaintiff must either complete service or show cause within ten days why Ms. Scheib should not be dismissed from this case pursuant to Rule 4(m).

Finally, as to individual defendant Jerry Scheib, Plaintiff states he has been unable to locate Mr. Scheib. Plaintiff requests additional time in which to locate and serve Mr. Scheib. The Court will grant this motion.

Accordingly, the Court **ORDERS** the following:

1) Defendants A Staffing Kompany, Inc., and APPS, Inc., are **DISMISSED WITHOUT PREJUDICE** pursuant to Rule 41(a)(1);

2) Plaintiff is **ORDERED** to show cause within ten days of the entry of this order why the action should not be dismissed as to defendant Loretta Scheib pursuant to Rule 4(m); and

3) Plaintiff shall have an additional thirty days from the entry of this order to serve defendant Mr. Scheib or show cause why he should not be dismissed pursuant to Rule 4(m).

**SO ORDERED.**

**ENTER:**

/s/  
**CURTIS L. COLLIER**  
**CHIEF UNITED STATES DISTRICT JUDGE**